

or contained in the Fine to be executed. (6) In like manner an Ordinary shall be commanded in his case, observing nevertheless as before is said of a Mean, which by Recognizance or Judgment is bound to acquit. contentam exequi faciat. Eodem modo mandetur ordinario in suo casu observato nichilominus quod supradictum est de medio qui per recognitionem aut iudicium obligatus est ad acquietandum.

Fleta 2 c. 13, p. 76, sec. 9. Co. Litt. 131 a. 2 Inst. 469. Bro. Debt, 10. Bro. Parl. 29. Fitz. Scire fac' 1, 2, 3, 8, 12, &c. Fitz. Execut. 18, 35, 57, 96, 100. Cro. El. 164. There shall be no Delays in those things that be recorded. Execution of things recorded. A *Scire facias* after the Year. Ordinary. A Mean. 13 Ed. 1, stat. 1, c. 9.¹

¹ **At common law.**—At common law a plaintiff who had recovered a judgment in a personal action could neither sue out execution nor revive the judgment by *scire facias* after a year and a day from its rendition, but was obliged to bring an original action in which he could offer the judgment as evidence of the debt. The rule was different in real actions because, the judgment therein being for land, an action of debt would not lie, and therefore in order to give plaintiff the benefit of his judgment it was held that a *scire facias* would lie for the land. To remedy this and make the procedure more uniform in both actions, the above Statute gave plaintiff the right to revive a judgment in a personal action by *scire facias* if he had neglected to issue an execution within the year. After that time the law presumed the judgment satisfied or released and the defendant was not to be disturbed without an opportunity of pleading his release, or showing some other reason why the execution should not issue. *Mitchell v. Chestnut*, 31 Md. 521; *Hagerstown Bank v. Thomas*, 35 Md. 511; *Johnson v. Lemmon*, 37 Md. 336; *Browne v. Chavez*, 181 U. S. 68.

Nature of *scire facias*.—Although a *scire facias* to revive a judgment is generally termed a judicial writ and although it is as against the judgment debtor and his heirs and personal representatives a continuation of a former proceeding, still it is really an action, since the defendant has a right to plead to it any defense which goes to show that his liability has been discharged or extinguished. *Browne v. Chavez*, 181 U. S. 68; *Kirkland v. Krebs*, 34 Md. 93; *Brooks v. Preston*, 106 Md. 693.

The writ is in the nature of a declaration and should contain on its face such a statement of facts as to justify the process as to the form in which it is issued and the persons who are to be made parties to it. It should also contain such proper recitals as to show in what right and for what amount it is issued; and this with sufficient certainty to enable the court to give judgment. *McKnew v. Duvall*, 45 Md. 501; *Bish v. Williar*, 59 Md. 382; *Bowie v. Neal*, 41 Md. 124.

It is not an original writ and can therefore be made returnable only on the return day of the regular term. *Bridges v. Adams*, 32 Md. 577. The